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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,856	09/28/2001	Neall Kilstrom	KNX-100-A	4975

7590 02/09/2005  
WEINER & BURT, P.C.  
P.O. BOX 186  
HARRISVILLE, MI 48740

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/966,856

Applicant(s)

KILSTROM, NEALL

Examiner

Urszula M Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang in view of Brodrib.

Lang discloses a toy; a first means (126) remote from the toy for transmitting first electronic signals carrying first audio input from a first source remotely located relative to the toy, for receiving second electronic signals (127) carrying second audio input from a second source located proximal to the toy transmitted from the toy, and for deriving from the second electronic signals from the second audio input; the toy including second means (753) for transmitting the second electronic signals carrying the second audio input from the second proximally located source to the first source remotely located relative to the toy for receiving the first electronic signals carrying the first audio input from the first source remotely located relative to the toy, and for deriving from the first electronic the first audio input; voice modulating means (540) operatively connected with the first means (col. 9, lines 15-18); the toy including motion means (drive servos) for moving at least one predetermined part of the toy in response to first electronic signals carrying the first audio input from the first remotely located source to the toy in synchronism with the first audio input (col. 6, lines 38-41); the first means including two

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wireless radios (240,242), one of which is maintained in a receive mode (240) and the other of which is maintained in a transmitting mode (242); the second means including two wireless radios (240,242), one of which is maintained in a receive mode (240), and the other of which is maintained in a transmitting mode (242); and the voice modulating means (540) operably connected with the first means (126) for disguising the first audio input (col. 9, lines 15-18); the second means includes a transmitter (724), a transmitter antenna, a receiver (999), a receiver antenna, and an amplifier (416).

Lang discloses the claimed invention except for the toy being stuffed.

Brodrub discloses an ambulatory toy that is stuffed (col. 4, lines 30-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a toy that is stuffed as taught by Brodrub, since Brodrub states at col. 1, lines 5-6 and col. 4, lines 30-33, that such a modification would give it an improved shape and better simulate a live animal.

### ***Response to Arguments***

Applicant's arguments filed 09 July 2004 have been fully considered but they are not persuasive.

*Applicant argues that Lang does not teach a toy. The examiner submits that Lang discloses teaches the existence of an animal-like creature having a human personality within the entertainment field (col. 1, lines 21 and 25-26). Webster's Third International Dictionary defines the word "toy" as "something designed for amusement or diversion". In this regard, a toy is not restricted to just being a "plaything" or "an object for children to play with".*

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With regards to applicant's contention that Lang makes no reference to disguising the audio input, the examiner submits that the reverb, feedback, time delays, and infinite repeats as disclosed by Lang clearly would disguise the first audio input, since the property of the first audio input is changed or modified by incorporating the reverb, feedback, time delays or infinite repeats.

In response to applicant's assertion that it would not have been obvious to combine Brodrib with Lang to teach a toy that is stuffed, the examiner submits that Brodrib is only used to teach that toys exist that are stuffed.

Applicant argues that Lang does not teach the second means including a transmitter, transmitter antenna, a receiver, a receiver antenna, and an amplifier, all of which are disposed on a single circuit board and/or protective case disposed in the interior of the stuffed toy. The examiner submits that Lang teaches using radio frequency (RF) transmitters and receivers. Lang further states that such an arrangement "avoids the use of wires or other umbilical type connections which takes away from the purpose of simulating human life" (col. 1, lines 65-68 through col. 2, lines 1-2). In order for radio frequency communication to occur, receivers and transmitters must have antennas. All the communication elements are housed within the animated character.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3714



**DERRIS H. BANKS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700